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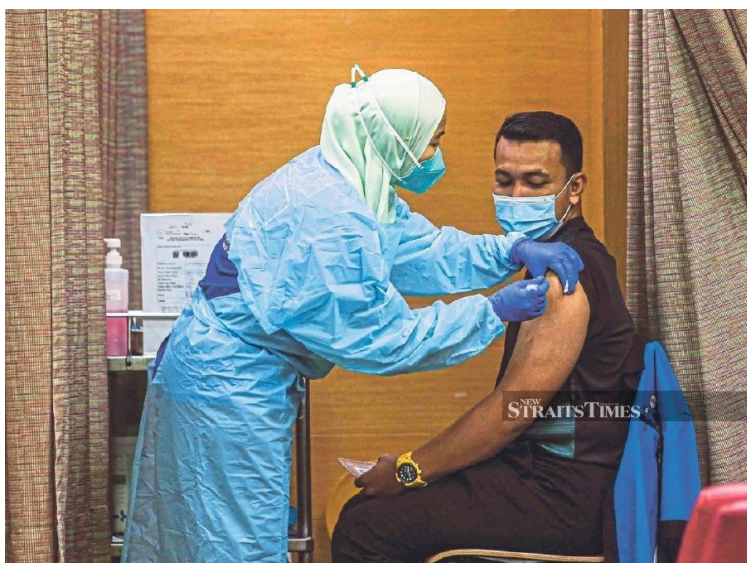


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Creating a safe workplace

April 7, 2021 @ 12:00am



To ensure a Covid-19-free workplace, many businesses are contemplating making Covid-19 vaccinations mandatory for their workers. -NSTP/FILE PIC

Ensuring workers' health and safety is the duty of employers and breaching that could expose them to penal sanctions under the occupational health and safety law, besides possible civil liability for negligence.

The government's interstate and inter-district travel restrictions to contain the Covid-19 outbreak had led to many companies operating remotely with minimum workforce.

The Covid-19 vaccination programme will surely come as a relief for businesses and employers as vaccinated persons will certainly pose lower risks to others in the workplace.

To ensure a Covid-19-free workplace, many businesses, from care home operators to big multinational companies, are contemplating making Covid-19 vaccination mandatory for their workers.

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VACCINE



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Some workers are objecting to vaccination for several reasons, such as concerns over the efficacy of the vaccines and their side effects, especially for those with pre-existing medical conditions.

As there is no law mandating vaccination, the issue will be whether employers can compel workers to get vaccinated as soon as it is available for them. The question is whether refusal to comply with the management request for vaccination can be a basis for termination of employment.

Some companies have warned vaccination-hesitant employees to either resign or be terminated. The question that arises is whether such a departure is considered voluntary resignation or a dismissal.

Before resorting to such drastic measures, it would be appropriate for employers to educate and encourage employees to seriously consider vaccination.

Not only should employers communicate with the workforce on why vaccination is considered necessary, but employers should also show how unvaccinated employees could pose a substantial health or safety threat to other individuals in the organisation.

Employers should also consider why some workers are rejecting vaccination. Workers who refuse vaccination due to pre-existing health conditions that could put them at great risk, such as those with severe allergies, should be eligible to request to be excused.

For such workers, companies can consider reassigning or redeploying them to other positions in the organisation that would have limited contact with others and so that they can adopt alternative measures to protect themselves, such as wearing personal protective gear.

Employers can also consider allowing such workers to continue to work from home as this arrangement would not require any permanent adjustment to the terms and conditions of employment, but employers would need to establish measurable performance goals and expectations.

However, employees who decline vaccination simply because they are a conscientious objector of vaccines risk being terminated after attempts by employers to convince them to get vaccinated fails. This is mainly because such workers compromise employers' legal obligation to ensure a safe and healthy workplace.

Therefore, workers are expected to obey the legitimate directives or orders of the management and any wilful disobedience is deemed an act of insubordination that undermines the order and discipline of the organisation.

After all, vaccination directives from companies mainly aim to ensure a Covid-secure workplace and this will be possible only when the vast majority of workers are vaccinated.

PROFESSOR DR ASHGAR ALI ALI MOHAMED

International Islamic University Malaysia



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